

KAUAI PLANNING COMMISSION
REGULAR MEETING

Tuesday, September 26, 2017

9:00:01 a.m. or Soon Thereafter
Lihue Civic Center, Moikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Kauai, Hawai'i

RECEIVED

17 SEP 19 P2:41

AGENDA

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

- A. CALL TO ORDER
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting(s) of the Planning Commission
- E. RECEIPT OF ITEMS FOR THE RECORD
- F. HEARINGS AND PUBLIC COMMENT (Noticed hearings will not commence until 9:00 a.m. or soon thereafter.) Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony shall also be accepted when the agenda item is taken up by the Commission. However if an individual has already testified during this period, additional testimony at the agenda item testimony may be allowed at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
 - 1. Continued Agency Hearing
 - a. Special Management Area Use Permit SMA(U)-2018-3 for the construction of a public shared use path extending from Papaloa Road to the Uhelekawawa Canal, and associated improvements involving an existing parking lot and a new comfort station, and Shoreline Setback Variance Permit SSV-2018-1 to deviate from the shoreline setback requirement, involving several properties along the makai side of Kuhio Highway in Waipouli identified as Tax Map Keys: 4-3-002:001, 012-016, 019, 020; 4-3-007:009, 011, 027, 028; 4-3-008:016, and containing a total area of approx. 2.14 acres = *County of Kauai, Department of Public Works*. [Director's Report (DR), Sup 1 DR, S2 DR received 9/12/17; hearing continued 9/12/17 at request of the Office of the County Attorneys for further review of Petition to Intervene by Wailua-Kapaa Neighborhood Association 9/12/17.]

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

- 2. New Agency Hearing**
- 3. Continued Public Hearing**
- 4. New Public Hearing**

- a. Proposed Amendments to the "Interpretative Administrative Zoning Rules and Regulations (2014) of the Kauai Planning Commission," Relating to Chapter 8, 9, and 10 of the Kauai County Code (1987), Enforcement of KPAR 8-19, Kauai County Code, Chapter 8, Article 17, Relating to Transient Vacation Rentals of the Kaua'i County Code.

Regarding the proposed Amendments to the "Interpretative Administrative Zoning Rules and Regulations (2014) of the Kauai Planning Commission," Relating to Chapter 8, 9, and 10 of the Kauai County Code (1987), Enforcement of KPAR 8-19, Kauai County Code, Chapter 8, Article 17, Relating to Transient Vacation Rentals of the Kaua'i County Code, the Planning Commission is proposing amendments to bring the rules in line with the requirements of KCC Chapter 8, Article 17. Namely, the amendment explains what items must be submitted to the Planning Department along with applications to renew non-conforming use certificates (NCUC), the deadlines for NCUC applications, and the repercussions for failing to submit an application by the NCUC's annual expiration date. In addition, the amendment increases the per day fine amount for Class I or II type structural violations from \$250 to \$500 and non-compliance with the ordinance violations, which include posting no NCUC sign from \$250 to \$1,000.

1. Director's Report pertaining to this matter.
- b. Proposed Amendments to Chapter 9, Appeals from Actions of the Planning Director, Rules of Practice and Procedure of the County of Kauai Planning Commission.

Regarding Proposed Amendments to Chapter 9, Appeals from Actions of the Planning Director, Rules of Practice and Procedure of the County of Kauai Planning Commission, the Planning Commission is proposing amendments to its rules governing appeals of Planning Director's actions by clarifying the types Planning Director actions under the Comprehensive Zoning Ordinance and Subdivision Ordinance that may be appealed to the Planning Commission, and clarifying that any person, not just applicants, can petition to appeal actions pursuant to the Shoreline Setback Ordinance. Finally, the amendment clarifies the deadline for filing petitions to appeal for each type of action. These amendments are designed to clarify the process contested case appeals of Planning Director actions.

1. Director's Report pertaining to this matter.

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

4. New Public Hearing (Cont'd)

- c. Proposed Amendments to Chapter 6, Agency Hearing Procedures, Rules of Practice and Procedure of the County of Kauai Planning Commission.

Regarding the proposed amendments to Chapter 6, Agency Hearing Procedures, Rules of Practice and Procedure of the County of Kauai Planning Commission, the Planning Commission is proposing amendments to its rules governing contested cases by eliminating civil style discovery, clarifying the time for filing motions, requiring resolution of motions by the Presiding Officer without a hearing unless the Presiding Officer requires otherwise, and specifying that no reply or supplemental memoranda shall be filed unless required by the Presiding Officer. These amendments are designed to encourage an expeditious and inexpensive contested case process while providing for procedural due process at the administrative level.

1. Director's Report pertaining to this matter.

5. All remaining public testimony pursuant to HRS 92 (Sunshine Law)

G. CONSENT CALENDAR

1. Status Reports
2. Director's Report(s) for Project(s) Scheduled for Agency Hearing on 10/10/17 (NONE)

H. EXECUTIVE SESSION

I. GENERAL BUSINESS MATTERS

J. COMMUNICATION (For Action)

K. COMMITTEE REPORTS

1. Subdivision Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

L. UNFINISHED BUSINESS (For Action)

1. Class IV Zoning Permit Z-IV-2017-15 and Use Permit U-2017-13 to allow construction of a swimming pool and pavilion on a parcel situated within the Seacliff Plantation Subdivision in Kilauea, located along the mauka side of Makanaano Place, further identified as 2183F Makanaano Place, Tax Map Key: 5-2-004:091, and affecting a portion of a larger parcel containing 5.204 acres = **Robert Leonard**. [Director's Report received 7/11/17, hearing postponed due to applicant's notification of abutting owners 7/25/17, Sup 1 DR received, hearing closed, action deferred 9/12/17.]

- a. Supplemental No. 2 to Director's Report pertaining to this matter.

M. NEW BUSINESS

1. **For Action – See Agenda F for Project Descriptions**

N. ANNOUNCEMENTS

1. Topics for Future Meetings
2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Kauai, Hawaii 96766 on **Tuesday, October 10, 2017.**

O. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes (“H.R.S.”), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Lihue, Hawaii 96766. Telephone: 241-4050.

KAUA'I PLANNING COMMISSION
SUBDIVISION COMMITTEE MEETING

Lihue Civic Center, Mo'ikeha Building
Meeting Room 2A-2B
4444 Rice Street, Lihue, Hawaii 96766

Tuesday, September 26, 2017, 8:30 A.M.

AGENDA

- A. **CALL TO ORDER**
- B. **ROLL CALL**
- C. **APPROVAL OF AGENDA**
- D. **MINUTES of the meeting(s) of the Subdivision Committee**

- 1. Meeting of September 12, 2017

- E. **RECEIPT OF ITEMS FOR THE RECORD (None)**

- F. **HEARINGS AND PUBLIC COMMENT**

Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony may also be accepted when the agenda item is taken up by the Commission at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.

- G. **GENERAL BUSINESS MATTERS (None)**

- H. **UNFINISHED BUSINESS (None)**

- I. **NEW BUSINESS (For Action)**

- 1. **Final Subdivision Map Approval**
 - a. Subdivision Application No. S-2016-22
(**Welk Resorts**)
Proposed 2-lot consolidation
TMK: (4) 2-8-014:008 & 2-8-014:034
Koloa, Kaua'i
- 1. Subdivision Report pertaining to this matter.

J. ADJOURNMENT

NOTE: Special accommodations and sign language interpreters are available upon request five (5) days prior to the meeting date, to the County Planning Department, 4444 Rice Street, Suite A473, Līhu'e, Hawai'i 96766. Telephone: (808) 241-4050.

Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

September 26, 2017

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2018-18	Ming Fang	5-1-005:045	Kalihiwai	After-the-Fact Grading